IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR
&
THE HONOURABLE MR. JUSTICE K.M.JOSEPH

FRIDAY, THE 11TH AUGUST 2006 / 20TH SRAVANA 1928

ST.Rev..No. 381 of 2004()

TA.401/2001 of S.T.A.TRIBUNAL,ADDL.BENCH,PALAKKAD
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REVISION PETITIONER.RESPONDENT.REVENUE:

STATE OF KERALA, REP. BY DEPUTY COMMISSIONER (LAW) COMMERCIAL TAXES, ERNAKULAM.

BY GOVERNMENT PLEADER SRI. V.V. ASOKAN.

RESPONDENTS/APPELLANT/ASSESSEE:

M/S.MANGALA TOURIST HOME, VATANAPPILLY.

THIS SALES TAX REVISION HAVING BEEN FINALLY HEARD ON 11/08/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

C.N. RAMACHANDRAN NAIR & K.M.JOSEPH, JJ.

S.T.REV. CASE.381 OF 2004

Dated this the 11th day of August, 2006.

JUDGMENT

Ramachandran Nair, J.

Even though notice has been served, there is no representation for the assessee. We find that the petitioner has established sufficient ground to condone the delay and therefore delay is condoned.

2. In the normal course we should issue fresh notice to the respondent before hearing the Revision. However, we find that the only issue raised, that is, rate of tax on Soda and Cola, is covered by the Full Bench decision of this court reported in **Lazarus Alosius v. State of Kerala** (2005(2) K.L.T. 604). We have been following the said decision in other cases. Therefore issue of fresh notice will only cause further loss to the respondent.

In the circumstances and in view of the Full Bench decision of this court referred to above, the Sales Tax Revision Case is allowed, without further notice, vacating the order of the Tribunal with regard to rate of tax on Soda and Cola with a direction to the Officer to revise

the assessment by applying the rate of tax on Soda and Cola based on the Full Bench decision of this court.

(C.N.RAMACHANDRAN NAIR, JUDGE)

(K.M. JOSEPH, JUDGE)

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K.S.RADHAKRISHNAN & K.M.JOSEPH, JJ.

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W.A. No. OF 200

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JUDGMENT

Dated this the day of February, 200.